

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Fig. 6. This sheet, which includes Figs. 6-9, replaces the original sheet including Figs. 6-9. In Fig. 6, first and second check valve elements 62 and 64 have been added.

Attachment: Replacement sheet

REMARKS

Applicants appreciate the Examiner's thorough examination of the application and request reexamination and reconsideration of the application in view of the following remarks. Additionally, Applicants thank Examiner Hockstra for the telephone discussion on January 14, 2010, during which the prior art of record, specifically Siegmund (U.S. Patent No. 4,598,698), was discussed with regard to claims 1 and 14. Proposed amendments with regard to the structure of the relationship between the second input port and the second check valve were also discussed, and the Examiner indicated that such amendments appeared to overcome the outstanding rejections. Agreement with respect to the claims was not reached.

As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03. Applicants respectfully request reconsideration of the present application in view of the following remarks.

Through the above amendments, Applicants have amended claims 1, 13, 14, 27 and 29 to correct typographical errors, to address informalities in the claims, and to clarify the claims. No new matter has been added through the above amendments to the claims. Accordingly, claims 1-30 remain pending. Applicants have also amended Fig. 6 to include elements 62 and 64. Support for the amendments to Fig. 6 is found at least at Paragraph [0034] of the subject application. No new matter has been added through the above amendments to the drawings.

Drawings

The Examiner objected to the drawings as failing to comply with 37 C.F.R. § 1.84(p)(5) because they did not include the following reference sign(s) mentioned in the description: "at least first and second check valve elements 62 and 64 in Figures 6-10 as disclosed in paragraph 34." Applicants have amended Fig. 6 through the above amendments to include elements 62 and 64. Accordingly, the objection to the drawings has been overcome.

Claim Objections

The Examiner objected to claims 1, 13, 14, 27 and 29 alleging that the claims contained informalities, including typographical and grammatical errors. Applicants have amended claims 1, 13, 14, 27 and 29 to correct the informalities in the claims. Accordingly, the objections to the claims have been overcome.

Claim Rejections - 35 U.S.C. § 102

To anticipate a claim, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

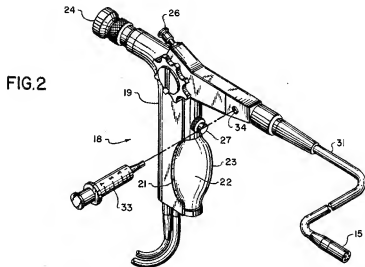
The Examiner rejected claims 1, 3, 4, 6, 8, 9, 14, 16, 17, 18, 19, 21, 22, and 27-30 under 35 U.S.C. § 102(b) as being anticipated by Siegmund (U.S. Patent No. 4,598,698). Applicants respectfully traverse the rejection.

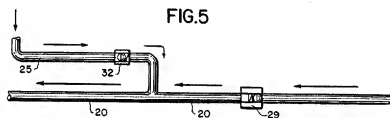
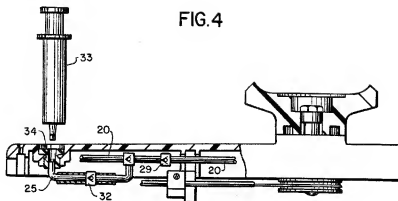
Independent claim 1

Independent claim 1 is directed to a biopsy system, comprising a vacuum assisted biopsy device, a first fluid source, a second fluid source, a fluid connector configured to provide the first

and second fluid sources in communication with the biopsy device, the fluid connector comprising a body member having a first inlet port in fluid communication with the first fluid source, a first check valve in fluid communication with the first inlet port, the first inlet port adapted to mate with the first check valve, a second inlet port in fluid communication with the second fluid source, a second check valve in fluid communication with the second inlet port, the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve, and an outlet port in fluid communication with the vacuum assisted biopsy device, wherein the first check valve is selectively opened when a vacuum is created in the fluid connector.

The Examiner alleged that Siegmund discloses all of the features of claim 1. However, Siegmund fails to disclose at least the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants in claim 1. Figs. 2, 4 and 5 of Siegmund are reproduced below:





Siegmund is directed to an endoscope 18 having a pistol grip 19 formed with a recess 21 for receiving and supporting a pneumatic bulb 22. Upon manual compression of bulb 22, air pressure opens normally closed check valve 29 and air flows through conduit 20 introducing air under pressure into shaft 31 and exhausting at shaft face 15 through channel 40. Check valve 32 is normally closed, blocking passage of air through conduit 25 leading to a syringe socket 34. Fluid can be introduced into syringe socket 34 by a conventional syringe 33 to introduce fluid into shaft 31 for irrigation or purging at the face 15. See Col. 2, line 32 – Col. 3 line 18 of Siegmund.

As noted above, independent claim 1 includes the feature of the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve. The Examiner asserted that Siegmund discloses a second inlet port (syringe socket 34), which is adapted to mate with the second check valve (32), and referred to Figs. 4-6 of Siegmund. See page 6 of the Office Action. Contrary to this, Siegmund does not disclose a second input port that is adapted to mate with a second check valve as claimed by Applicants. As shown in Figs. 4 and 5 of Siegmund, check valve 32 is separated from syringe socket 34 by conduit 25. Check valve

32 of Siegmund is connected to conduit 25, which is in turn connected to syringe socket 34. Indeed, Siegmund states that “check valve 32 is normally closed blocking passage of air through conduit 25 leading to a syringe socket 34 (FIGS. 2 and 4).” Col. 3, lines 1-3 of Siegmund (emphasis added). It is clear from this section of Siegmund that check valve 32 is separated from syringe socket 34 by conduit 25. As syringe socket 34 is connected to conduit 25, the syringe socket 34 is not adapted to mate with check valve 32 such that the syringe socket 34 is in contact with check valve 32. Syringe socket 34 is clearly not in contact with check valve 32.

Accordingly, Siegmund clearly fails to disclose the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants. As Siegmund fails to disclose each and every element of independent claim 1 of the subject application, independent claim 1, and dependent claims 3, 4, 6, 8 and 9 are patentable over Siegmund for at least this reason. Moreover, dependent claims 3, 4, 6, 8 and 9 each contain additional recitations that are separately patentable as well.

Independent claim 14

Independent claim 14 is directed to a fluid connector for a biopsy system including a vacuum assisted biopsy device, a first fluid source and a second fluid source, the fluid connector comprising a body member having a first inlet port, a second inlet port and an output port, wherein the first inlet port includes a first check valve in fluid communication with the first fluid source, the first inlet port adapted to mate with the first check valve, the second inlet port includes a second check valve in fluid communication with the second fluid source, the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve, and the output port is provided in communication with the vacuum assisted biopsy device, wherein the first check valve is selectively opened when a vacuum is created in the fluid connector.

As with independent claim 1, independent claim 14 also includes the feature of the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve. As noted above, Siegmund fails to disclose the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants. Accordingly, independent claim 14, and dependent

claims 16, 17, 18, 19, 21, 22 and 27-30, all of which depend from claim 14, are patentable over Siegmund for at least this reason. Moreover, dependent claims 16, 17, 18, 19, 21, 22 and 27-30 each contain additional recitations that are separately patentable as well.

Claim Rejections – 35 U.S.C. § 103

"To establish prima facie obviousness of a claimed invention, all the claim recitations must be taught or suggested by the prior art." *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j).

I. Siegmund (U.S. Patent No. 4,598,698) in view of Clement (U.S. Patent No. 5,505,210)

The Examiner rejected claims 2 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Siegmund (U.S. Patent No. 4,598,698) in view of Clement (U.S. Patent No. 5,505,210).

As noted above with regard to independent claims 1 and 14, Siegmund fails to disclose the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve. The Examiner alleged that Clement discloses a biopsy system and a fluid connector comprising a first check valve including a duckbill valve member for selectively permitting or excluding fluid passage during a medical procedure. However, Clement does not make up for the deficiencies in the teachings of Siegmund. Nowhere does Clement disclose, teach or suggest a body member having a second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants.

Therefore, as neither of the references discloses the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants, the combination of references fails to teach or suggest all of the elements of independent claims 1 and 14. Accordingly, claims 2 and 15, which depend from independent claims 1 and 14 respectively, are patentable over the references for at least this reason. Moreover, dependent claims 2 and 15 each contain additional recitations that are separately patentable as well.

II. Siegmund (U.S. Patent No. 4,598,698) in view of Miller (U.S. Publication No. 2002/0082519)

The Examiner rejected claims 5, 7, 12, 18, 20, and 25 under 35 U.S.C. § 103(a) as being unpatentable over Siegmund (U.S. Patent No. 4,598,698) in view of Miller et al. (U.S. Publication No. 2002/0082519).

As noted above with regard to independent claims 1 and 14, Siegmund fails to disclose the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve. The Examiner alleged that Miller discloses a biopsy system and a fluid connector comprising a first fluid source and a second fluid source. However, Miller does not make up for the deficiencies in the teachings of Siegmund. Nowhere does Miller disclose, teach or suggest a second check valve, let alone a body member having a second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants.

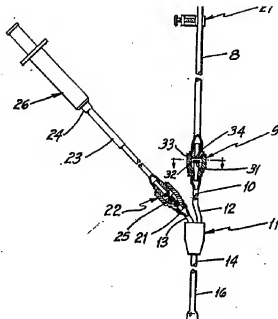
Therefore, as neither of the references discloses the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants, the combination of references fails to teach or suggest all of the elements of independent claims 1 and 14. Accordingly, claims 5, 7, 12, 18, 20 and 25, which depend from independent claims 1 and 14, are patentable over the references for at least this reason. Moreover, dependent claims 5, 7, 12, 18, 20 and 25 each contain additional recitations that are separately patentable as well.

III. Siegmund (U.S. Patent No. 4,598,698) in view of Moore (U.S. Patent No. 2,866,457)

The Examiner rejected claims 10 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Siegmund (U.S. Patent No. 4,598,698) in view of Moore (U.S. Patent No. 2,866,457).

As noted above with regard to independent claims 1 and 14, Siegmund fails to disclose the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve. The Examiner alleged that Moore discloses a medical device having fluidic administration management comprising check valves. However, Moore does not make up for the deficiencies in the teachings of Siegmund. Nowhere does Moore disclose, teach or suggest first and second input ports that are adapted to mate with first and second check valves

respectively, or that the second inlet port is in contact with the second check valve as claimed by Applicants. Fig. 1 of Moore is reproduced below:



The check valves 9 and 21 of Moore are separated from connection 11 by tubing 10 and 21. Check valves 9 and 21 of Moore are connected to tubing 10 and 21 respectively, which are in turn connected to first leg 12 and second leg 13 respectively. Check valves 9 and 21 of Moore are not mated with first leg 12 and second leg 13 of connection 11. Accordingly, as first and second legs 12, 13 of Moore are connected to tubing 10 and 21, first and second legs 12, 13 are not adapted to mate with the check valves as claimed by Applicants. Nor are the first and second legs 12, 13 in contact with check valves 9, 21.

Therefore, as neither of the references discloses the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants, the combination of references fails to teach or suggest all of the elements of independent claims 1 and 14. Accordingly, claims 10 and 23, which depend from independent claims 1 and 14, are patentable over the references for at least this reason. Moreover, dependent claims 10 and 23 each contain additional recitations that are separately patentable as well.

IV. Siegmund (U.S. Patent No. 4,598,698) in view of Turturro (U.S. Patent No. 6,331,165)

The Examiner rejected claims 11, 13, 24, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Siegmund (U.S. Patent No. 4,598,698) in view of Turturro et al. (U.S. Patent No. 6,331,165 B1).

As noted above with regard to independent claims 1 and 14, Siegmund fails to disclose the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve. The Examiner alleged that Turturro discloses a biopsy system and a fluid connector comprising luer fittings for the purpose of providing quick and easy connection and disconnection. However, Turturro does not make up for the deficiencies in the teachings of Siegmund. Nowhere does Turturro disclose, teach or suggest a body member having a second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants.

Therefore, as neither of the references discloses the second inlet port adapted to mate with the second check valve such that the second inlet port is in contact with the second check valve as claimed by Applicants, the combination of references fails to teach or suggest all of the elements of independent claims 1 and 14. Accordingly, claims 11, 13, 24 and 26 and 25, which depend from independent claims 1 and 14, are patentable over the references for at least this reason. Moreover, dependent claims 11, 13, 24 and 26 each contain additional recitations that are separately patentable as well.

Conclusion

In view of the above amendment and remarks, the pending application is in condition for allowance. If, however, there are any outstanding issues that can be resolved by telephone conference, the Examiner is earnestly encouraged to telephone the undersigned representative.

It is believed no fees are due with this response. However, if any fees are required in connection with the filing of this paper that are not identified in any accompanying transmittal, permission is given to charge our Deposit Account No. 18-0013, under Order No. 65937-0045 from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of

time under 37 C.F.R. §1.136 is hereby made, the fee for which should also be charged to this Deposit Account.

Dated: February 2, 2010

Respectfully submitted,

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Attachments

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